

*** NOT FOR PUBLICATION ***

NO. 26217

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ANTHONY PETER SCARPELLI,
Plaintiff-Counterclaim Defendant Appellant

vs.

BU RAN HINES, Defendant Counterclaimant Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 03-1-1206)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that the circuit court's October 15, 2003 order granting summary judgment on the claims and counterclaim asserted in Civil No. 03-1-1206 was not reduced to a separate judgment, as required by HRCP 58. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994). Thus, this appeal is premature and we lack jurisdiction. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, March 15, 2004.